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[REDACTED] EXAMINER

KIM, CHONG HWA

ART UNIT	PAPER NUMBER
	3682

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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/658,509	THOMSON ET AL.	
	Examiner Chong H. Kim	Art Unit 3682	
<b>-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --</b>			
<b>Period for Reply</b>			
<p>A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.</p> <ul style="list-style-type: none"> <li>- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.</li> <li>- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.</li> <li>- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.</li> <li>- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).</li> <li>- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</li> </ul>			
<b>Status</b>			
<p>1)<input checked="" type="checkbox"/> Responsive to communication(s) filed on <u>13 March 2003</u>.</p> <p>2a)<input checked="" type="checkbox"/> This action is <b>FINAL</b>.      2b)<input type="checkbox"/> This action is non-final.</p> <p>3)<input type="checkbox"/> Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under <i>Ex parte Quayle</i>, 1935 C.D. 11, 453 O.G. 213.</p>			
<b>Disposition of Claims</b>			
<p>4)<input checked="" type="checkbox"/> Claim(s) <u>1-4,6-14 and 16-27</u> is/are pending in the application.</p> <p>4a) Of the above claim(s) _____ is/are withdrawn from consideration.</p> <p>5)<input type="checkbox"/> Claim(s) _____ is/are allowed.</p> <p>6)<input checked="" type="checkbox"/> Claim(s) <u>1-4,6-14 and 16-27</u> is/are rejected.</p> <p>7)<input type="checkbox"/> Claim(s) _____ is/are objected to.</p> <p>8)<input type="checkbox"/> Claim(s) _____ are subject to restriction and/or election requirement.</p>			
<b>Application Papers</b>			
<p>9)<input type="checkbox"/> The specification is objected to by the Examiner.</p> <p>10)<input type="checkbox"/> The drawing(s) filed on _____ is/are: a)<input type="checkbox"/> accepted or b)<input type="checkbox"/> objected to by the Examiner.</p> <p style="margin-left: 20px;">Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).</p>			
<p>11)<input type="checkbox"/> The proposed drawing correction filed on _____ is: a)<input type="checkbox"/> approved b)<input type="checkbox"/> disapproved by the Examiner.</p> <p style="margin-left: 20px;">If approved, corrected drawings are required in reply to this Office action.</p>			
<p>12)<input type="checkbox"/> The oath or declaration is objected to by the Examiner.</p>			
<b>Priority under 35 U.S.C. §§ 119 and 120</b>			
<p>13)<input type="checkbox"/> Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).</p> <p>a)<input type="checkbox"/> All    b)<input type="checkbox"/> Some * c)<input type="checkbox"/> None of:</p> <p>1.<input type="checkbox"/> Certified copies of the priority documents have been received.</p> <p>2.<input type="checkbox"/> Certified copies of the priority documents have been received in Application No. _____.</p> <p>3.<input type="checkbox"/> Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).</p>			
<p>* See the attached detailed Office action for a list of the certified copies not received.</p>			
<p>14)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).</p> <p>a)<input type="checkbox"/> The translation of the foreign language provisional application has been received.</p>			
<p>15)<input type="checkbox"/> Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.</p>			
<b>Attachment(s)</b>			
<p>1)<input type="checkbox"/> Notice of References Cited (PTO-892)</p> <p>2)<input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)</p> <p>3)<input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.</p>		<p>4)<input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ .</p> <p>5)<input type="checkbox"/> Notice of Informal Patent Application (PTO-152)</p> <p>6)<input type="checkbox"/> Other: _____ .</p>	

**DETAILED ACTION**

The Examiner acknowledges the applicant's Amendment filed Mar 13, 2003 in response to Office action made on Dec 13, 2002 and canceling of claims 5 and 15.

***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-4, 6-14, and 16-27 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3, 15, 24, 27, 31, 33, 35, 38, 40, 43, and 45 of copending Application No. 09/658,389 in view of Roddy, U.S. Patent 5,881,606, in view of Giard, U.S. Patent 6,058,800, and in view of Jeshurun et al., U.S. Patent 5,165,301.

The copending Application No. 09/658,389 recites the limitations of the bicycle stem comprising the body portion, the handlebar clamping portion, the handlebar clamping member, the steering tube clamping portion, and the steering tube clamp, wherein the body portion, the handlebar clamping portion, and the steering tube clamping portion are integrally formed as a

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monolithic unit, but fails to show the fasteners for securing the handlebar clamping member having a recess and generally a rectangular shape to the handlebar clamping portion having a recess and generally a rectangular shape; the body portion being a tubular shape with a hollow interior; and the clamping member and portion having recess and a cavity.

Roddy shows, in Figs. 1-3, a bicycle stem for connecting a bicycle handlebar to a bicycle steering tube, the bicycle stem comprising a handlebar clamping portion 13 having a recess or cavity 22 and having generally a rectangular shape; a handlebar clamping member 23 having a recess or cavity 22 and having generally a rectangular shape; fasteners 32 securing corners of the handlebar clamping member and the handlebar clamping portion; wherein the handlebar clamping member is removable from the handlebar clamping portion and the cavity 22 is formed to accommodate the handlebar 11.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to utilize the rectangular shaped clamping device having fasteners in the corners as taught by Roddy in the handlebar clamping device of the copending Application No. 09/658,389 in order to provide a more securing and stronger clamping device so that the safety of the operator is ensured.

As to the matter of the tubular shape, Giard shows, in Fig. 9, a bicycle stem comprising a body portion 28 and a handlebar clamping portion 43 wherein the body portion 28 has a tubular shape with a hollow interior and wherein the cavity 47 of the handlebar clamping portion 43 has an opening therein in communication with the hollow interior of the body portion 28.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the body portion of copending Application No. 09/658,389 with

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the hollow body portion of Giard in order to provide a lighter device so that less energy is required to propel the bicycle.

As to the matter of the handlebar clamping portion and member having a recess and a cavity, Jeshurun et al. shows, in Fig. 1, and teaches, in column 3, lines 10-26, that a bicycle clamping device comprises a recess for the handlebar 16, 18 and a cavity in a respective medial portion of the recess to accommodate an enlarged diameter portion 14 of the handlebar, the cavity in the recess of the handlebar clamping portion extending fully over a first arcuate extent.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the clamping device of the copending Application No. 09/658,389 with the recess and cavity formed clamping device as taught by Jeshurun et al. in order to provide a safer vehicle wherein the movement of the handlebar in axial direction is prevented.

This is a provisional obviousness-type double patenting rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-4, 9, 10, 20-22, and 24-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Giard in view of Jeshurun et al and in view of Lai, U.S. Patent 5,509,328.

Giard shows, in Figs. 1-11, a bicycle stem for connecting a bicycle handlebar to a bicycle steering tube, the bicycle stem comprising;

a body portion 27 having a tubular shape with a hollow interior and opposing first 32 and second 31 ends;

a handlebar clamping portion 43 connected to the first end of the body portion 27;

a handlebar clamping member 44 cooperating with the handlebar clamping portion 43 to clamp the bicycle handlebar 23 therebetween;

the handlebar clamping member 44 and the handlebar clamping portion 43 each having a cavity 47 in a respective medial portion thereof to accommodate an enlarged diameter portion of the handlebar 23, wherein the cavity 47 of the handlebar clamping portion 43 has an opening (see Fig. 9) therein in communication with the hollow interior of the body portion 27;

at least one fastener 49 for securing the handlebar clamping member 44 to the handlebar clamping portion 43;

a steering tube clamping portion 33 connected to the second end of the body portion 27;

the handlebar clamping member 44 has a generally rectangular shape (see Fig. 6) with a recess 47 therein defining with the cavity a pair of spaced apart contact areas 45, 46 for contacting the handlebar 23;

wherein the handlebar clamping member 44 is removable from the handlebar clamping portion 43;

wherein the handlebar clamping portion 43 has a recess 47 therein defining with the cavity a pair of spaced apart contact areas 45, 46 for contacting the handlebar 23;

wherein the steering tube clamping portion 33 has a tubular shape defining a steering tube receiving passageway 34 therethrough, and wherein the steering tube clamping portion 33 also

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has clamp receiving passageway 41 therein transverse to the steering tube receiving passageway 34 and in communication therewith (see Fig. 4);

wherein the handlebar clamping member 44 and the handlebar clamping portion 43 both have generally rectangular shapes overlying one another (see Figs. 2, 4, 6, 7); and

wherein the body portion 27, the handlebar clamping portion 43, and steering tube clamping portion 33 are integrally formed as a monolithic unit;

but fails to show the clamping member and portion having recess and a cavity and a cavity and the steering tube clamp comprising a pair of clamp members aligned in side-by-side relation.

As to the matter of the clamping member and portion having recess and a cavity, Jeshurun et al. shows, in Fig. 1, and teaches, in column 3, lines 10-26, that a bicycle clamping device comprises a recess for the handlebar 16, 18 and a cavity in a respective medial portion of the recess to accommodate an enlarged diameter portion 14 of the handlebar, the cavity in the recess of the handlebar clamping portion extending fully over a first arcuate extent.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the clamping device of the Giard with the recess and cavity formed clamping device as taught by Jeshurun et al. in order to provide a safer vehicle wherein the movement of the handlebar in axial direction is prevented.

As to the matter of the steering tube clamp comprising a pair of clamp members aligned in side-by-side relation, Lai shows, in Figs. 6 and 8, a bicycle stem comprising a steering tube clamping portion 70 having a tubular shape 71 defining a steering tube receiving passageway therethrough, and wherein the steering tube clamping portion 70 has a clamp receiving

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passageway 74 therein transverse to the steering tube receiving passageway 71 and in communication therewith; and further comprising a steering tube clamp 81, 82 in the clamp receiving passageway 74 and comprising a pair of cooperating clamp members 81, 82 aligned in side-by-side relation and comprising respective portions defining a recess 87, 88 therein for the steering tube 6.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the clamping device of Giard with the pair clamp device of Lai in order to provide a tighter and more versatile clamping device so that the operation of the bicycle is not compromised.

5. Claims 1-4, 6-8, 11-14, and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roddy in view of Jeshurun et al., in view of Giard, and in view of Lai.

Roddy shows, in Figs. 1-3, a bicycle stem for connecting a bicycle handlebar to a bicycle steering tube, the bicycle stem comprising;

a body portion 10 having opposing first 13 and second 14 ends;

a handlebar clamping portion 13 connected to the first end of the body portion 10;

a handlebar clamping member 23 cooperating with the handlebar clamping portion 13 to clamp the bicycle handlebar 11 therebetween;

the handlebar clamping member 23 and the handlebar clamping portion 13 each having a cavity 22 in a respective medial portion thereof to accommodate an enlarged diameter portion of the handlebar 11;

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at least one fastener 32 for securing the handlebar clamping member 23 to the handlebar clamping portion 13;

a steering tube clamping portion 14 connected to the second end of the body portion 10;

the handlebar clamping member 23 has a generally rectangular shape with a recess 22 therein defining with the cavity a pair of spaced apart contact areas 24, 31 for contacting the handlebar 11;

wherein the handlebar clamping member 23 is removable from the handlebar clamping portion 13;

wherein the handlebar clamping portion 13 has a recess 22 therein defining with the cavity a pair of spaced apart contact areas 24, 31 for contacting the handlebar 11;

wherein the handlebar clamping member 23 and the handlebar clamping portion 13 both have generally rectangular shapes overlying one another;

wherein the at least one fastener 32 comprises respective fasteners (see Fig. 1) securing corners of the handlebar clamping member 23 and the handlebar clamping portion 13 together;

wherein the body portion 10, handlebar clamping portion 13 and the steering tube clamping portion 14 are integrally formed as a monolithic unit; and

wherein the steering tube clamping portion 17, 18 has a tubular shape defining a steering tube receiving passageway therethrough, and wherein the steering tube clamping portion 17, 18 also has clamp receiving passageway (for clamp 21) therein transverse to the steering tube receiving passageway and in communication therewith (see Fig. 4);

but fails to show the clamping member and portion having recess; the body portion having a tubular shape with a hollow interior which communicate with an opening in the cavity

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of the handlebar clamping portion; and the steering tube clamp comprising a pair of clamp members aligned in side-by-side relation.

As to the matter of the clamping member and portion having recess, Jeshurun et al. shows, in Fig. 1, and teaches, in column 3, lines 10-26, that a bicycle clamping device comprises a recess for the handlebar 16, 18 and a cavity in a respective medial portion of the recess to accommodate an enlarged diameter portion 14 of the handlebar, the cavity in the recess of the handlebar clamping portion extending fully over a first arcuate extent.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the clamping device of the Roddy with the recess and cavity formed clamping device as taught by Jeshurun et al. in order to provide a safer vehicle wherein the movement of the handlebar in axial direction is prevented.

As to the matter of the body portion having a hollow interior which communicate with an opening in the handlebar clamping portion, Giard shows, in Fig. 9, a bicycle stem comprising a body portion 28 and a handlebar clamping portion 43 wherein the body portion 28 has a tubular shape with a hollow interior and wherein the cavity 47 of the handlebar clamping portion 43 has an opening therein in communication with the hollow interior of the body portion 28.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the solid body portion of Roddy with the hollow body portion of Giard in order to provide a lighter device so that less energy is required to propel the bicycle.

As to the matter of the steering tube clamp comprising a pair of clamp members aligned in side-by-side relation, Lai shows, in Figs. 6 and 8, a bicycle stem comprising a steering tube clamping portion 70 having a tubular shape 71 defining a steering tube receiving passageway

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therethrough, and wherein the steering tube clamping portion 70 has a clamp receiving passageway 74 therein transverse to the steering tube receiving passageway 71 and in communication therewith; and further comprising a steering tube clamp 81, 82 in the clamp receiving passageway 74 and comprising a pair of cooperating clamp members 81, 82 aligned in side-by-side relation and comprising respective portions defining a recess 87, 88 therein for the steering tube 6.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the clamping device of Roddy with the pair clamp device of Lai in order to provide a tighter and more versatile clamping device so that the operation of the bicycle is not compromised.

6. Claims 20, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Roddy in view of Giard and in view of Jeshurun et al.

Roddy shows, in Figs. 1-3, a bicycle stem for connecting a bicycle handlebar to a bicycle steering tube, the bicycle stem comprising;

a body portion 10;

a handlebar clamping portion 13 connected to an end of the body portion 10 and having a recess 22 therein for the handlebar 11;

a handlebar clamping member 23 cooperating with the handlebar clamping portion 13 to clamp the bicycle handlebar 11 therebetween, the handlebar clamping member 23 having a recess 22 for the handlebar 11;

at least one fastener 32 for securing the handlebar clamping member 23 to the handlebar clamping portion 13; and

wherein the handlebar clamping member 23 and the handlebar clamping portion 13 both have generally rectangular shapes overlying one another;

but fails to show the body portion having a hollow interior which communicate with an opening in the handlebar clamping portion and the clamping member and portion having recess.

As to the matter of the body portion having a hollow interior which communicate with an opening in the handlebar clamping portion, Giard shows, in Fig. 9, a bicycle stem comprising a body portion 28 and a handlebar clamping portion 43 wherein the body portion 28 has a tubular shape with a hollow interior and wherein the cavity 47 of the handlebar clamping portion 43 has an opening therein in communication with the hollow interior of the body portion 28.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the solid body portion of Roddy with the hollow body portion of Giard in order to provide a lighter device so that less energy is required to propel the bicycle.

As to the matter of the clamping member and portion having recess, Jeshurun et al. shows, in Fig. 1, and teaches, in column 3, lines 10-26, that a bicycle clamping device comprises a recess for the handlebar 16, 18 and a cavity in a respective medial portion of the recess to accommodate an enlarged diameter portion 14 of the handlebar, the cavity in the recess of the handlebar clamping portion extending fully over a first arcuate extent.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the clamping device of the Roddy with the recess and cavity

formed clamping device as taught by Jeshurun et al. in order to provide a safer vehicle wherein the movement of the handlebar in axial direction is prevented.

***Response to Arguments***

7. In response to the applicant's argument regarding the Double Patenting rejection, it is the Examiner's position that the Double Patenting rejection is proper. First of all, the co-pending patent application 09/658,389 is directed to at least similar aspects of the bicycle stem. One being adapted to be attached to the steering tube and the other being adapted to attach the handlebar does not mean that those stems are completely different. The steering tube and the handlebar are the environment in which the claimed bicycle stem is utilized in. Nevertheless, the bicycle stems disclosed in the present invention is same as the bicycle stem disclosed in the co-pending patent application 09/658,389.

It is reminded that the rejection was not based on the disclosure in the specification, but on the limitations recited in the claims of the co-pending patent application 09/658,389. As discussed above in paragraph 3, the claims 1, 3, 15, 24, 27, 31, 33, 35, 38, 40, 43, and 45 of the co-pending patent application 09/658,509 recite every element in claims 1-27 of present invention except the fasteners for securing the handlebar clamping member having a recess and generally a rectangular shape to the handlebar clamping portion having a recess and generally a rectangular shape; the body portion being a tubular shape with a hollow interior; and the clamping member and portion having recess and a cavity.

8. In response to the applicant's argument pertaining to Giard reference, it is the Examiner's view that it would still render the Giard device satisfactory for its intended advantage when modified with the centered cavity/groove as taught by Jeshurun. It is still possible to modify the

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handlebar clamping member 44 of Giard with the center groove formed in the cavity and continue to use a single fastener 49. There appears no reason why one of ordinary skill in the art can not use a single fastener when the clamping member 44 is modified with a groove formed therein in the center portion.

9. In response to the applicant's argument pertaining to Roddy in view of Jeshurun and giard, it is the Examiner's position that the modification of the Roddy clamping device would render satisfactory for its intended advantage. Even if the Roddy clamping device is hollowed out, the coverage and engagement of the surface area of the circumference of the handlebar would be large enough to remain satisfactory.

10. In response to the applicant's argument that Giard does not discuss about the opening as shown in Figs. 9 and 11, it is noted that prior art is not required to describe in the Specification every element shown in the Drawings in order for the prior art to be considered. The details shown in the Drawings, whether described in the Specification or not, are part of the disclosure which can be relied thereon to reject with. Furthermore, there is no such requirement in MPEP.

11. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

In this case, the combinations are resulted from the suggestion found in the reference and/or the knowledge generally available to one of ordinary skill in the art.

***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chong H. Kim whose telephone number is (703) 305-0922. The examiner can normally be reached on Monday - Friday; 9:00 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on (703) 308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

chk  
April 29, 2003



CHONG H. KIM  
PRIMARY EXAMINER